

**In the United States District Court
for the Southern District of Texas
Houston Division**

**United States of America ex rels.
Lisa Powell and Marybel Picazo,
Plaintiffs**

v.

**Dr. Lubor Jarolimek and Orthopedic Care
Center,
Defendants**

Civil Action No. 4:16-cv-01419

Relators' Status Report

Relators Lisa Powell and Marybel Picazo submit this Status Report.

1. As previously reported, the parties continue settlement negotiations, but have not reached a settlement to date.

2. In furtherance of the settlement negotiations and the preparation of this matter for trial (should this case not settle), Relators have requested complete patient files. Realtors believe that they need this information to fully evaluate and hopefully settle the claims herein. Realtors also believe that both the Government and the Court will require this material to evaluate and hopefully approve any proposed settlement herein.

3. As the Court may recall, while Defendant Orthopedic Care Center's electronic back-up transcription records were produced for only certain patients, Defendants have stated that they are unable to produce the balance of such patients' files due to water damage from Hurricane Harvey. Accordingly, Relators are seeking complete patient records directly from Medicare by way of a third-party subpoena for same.

4. To facilitate this third-party production of patient files, the Court entered confidentiality and protective Orders containing certain language required by Centers for Medicare and Medicaid Services (“CMS”). And Relators immediately forwarded the signed Orders to CMS.

5. Thereafter, counsel for CMS requested certain additional information such as verification of the categories of requested documents and the applicable time frames for production, and counsel for Relators have worked with counsel for CMS to confirm and provide the requested information.

6. On June 8, 2021, this Court ordered Relators to report the status of the production of the subpoenaed records from CMS by July 2, 2021. On July 1, 2021, CMS produced an initial batch of documents. Relators downloaded the documents, marked them “confidential-attorneys’ eyes only,” and forwarded same to defense counsel for review. Although Relators’ document review is not yet complete, the initial batch of documents appears to include documents in the following categories:

- a. appeals,
- b. customer service logs, and
- c. claims overview spreadsheets.

CMS indicated its record service, Novitas, will produce the remainder of the subpoenaed documents on July 16, 2021.

7. Accordingly, Relators respectfully request that the Court extend the deadline for the parties to file a joint status report to the Court to August 2, 2021. This will allow adequate time for CMS to complete its production and for the parties to receive, process, and review the full production.

For these reasons, the Relators respectfully request that the Court extend the deadline for the parties to submit a joint status report to August 2, 2021. And finally, the Relators request all other relief to which they are justly entitled.

Respectfully submitted,

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Certificate of Service

I hereby certify that on July 2, 2021, a true and correct copy of the foregoing has been served *via* the Court's ECF System and via email as follows:

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